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EXAMINER

MELWANI, DINESH

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/814,229

Applicant(s)

LIPPOLDT ET AL.

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/13/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 1/13/03 is being considered by the examiner.

### *Drawings*

2. The corrected or substitute drawings were received on 1/13/03. These drawings are approved.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, 6, 9, 11-13, 15, 16, 18, and 19 rejected under 35 U.S.C. 102(e) as being anticipated by Shimizu (U.S. Patent No. 6,402,208). Shimizu discloses a locking device of a closure with a housing as claimed, wherein said locking device comprises a swiveling lever (13) pivotally supported about an axis of rotation (P) in the housing and including a projecting guide element (12), wherein said guide element is defined by a prolongation of said axis of rotation. Shimizu's locking device also includes at least one drive to pivot said swiveling lever, wherein

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said drive is a handle (17), see column 4, lines 37-38. Furthermore, Shimizu discloses a catch hook (22), having a widened base, supported on the swiveling lever via pin (24) on a pivot axis at a spacing from the axis of rotation (P) and a cam segment (19) into which the guide element (i.e., pin) (12) of the swiveling lever engages, and at least one spring means (31), which biases the bracket and subsequently the catch hook, See Figure 8. Still Furthermore, Shimizu includes a closing edge of the closure (23) adapted to be gripped. In regards to claim 2, Shimizu discloses a locking device of a closure having a swiveling lever, wherein said lever is substantially of a circle segment shape. Regarding claim 3, Shimizu discloses a locking device of a closure, wherein the axis of rotation (P) is disposed in the inner angular range of the circle segment shaped swiveling lever and pivot axis (about pin 24) is disposed in the vicinity of a lateral limitation of the circle segment shaped swiveling lever. Regarding claim 11, Shimizu's spring element (31) is held on the housing at the other end (32). In regard to claims 12 and 13, Shimizu's catch hook is adapted to be moved through a slot-shaped aperture (A in Figure 9) in the housing, wherein said hook does not substantially project beyond the housing. Regarding claims 15 and 16, Shimizu discloses a latch for an oven door (i.e. closure), wherein it is widely known to one with ordinary skill in the art that oven doors are pivotally mounted on the housing of the oven. See Figure 8 and 9. In regards to claim 19, the use of several catch hooks has been deemed a mere duplication of parts since one catch hook maintains the closure in a closed position and any additional catch hooks would only serve further insure said closure remained closed. Duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Baukholt et al. (U.S. Patent No. 5,992,194). Shimizu discloses a locking device substantially as claimed, wherein said device includes a swiveling lever, However, Shimizu does not disclose a series of teeth extending around the axis of rotation of said lever. Baukholt discloses a lock that teaches the use of teeth (1.10a) on the periphery of a circular shaped lever. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to utilize the teachings of Baukholt, in regards to the use of teeth, to modify Shimizu to facilitate the transmission of power between a drive element and a driven element.

7. Claims 7 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Malone *et al.* (U.S. Patent No. 5,220,153). Shimizu discloses a locking device substantially as claimed but does not include an electric motor. Malone discloses a closing device, wherein said device is actuated by an electric motor (30). In regards to claim 10, Shimizu discloses a locking device substantially as claimed, wherein said device includes a spring element, but Shimizu does not disclose the fixing point of said spring element to be on the on the catch lever between the cam segment and the hooked end. Malone discloses a motorized locking device that includes a spring element (82) being fixed to the catch

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element (14) between the cam segment and the neck. It would have been obvious to one having ordinary skill in the art at the time of the invention to utilize the teachings of Malone, in regards to the use of a motor in a latching device, to modify Shimizu so as to automate the latching process. Furthermore, it would have been obvious to modify Shimizu by utilizing the teachings of Malone, in regards to location of spring attachment, and attached the spring directly to the catch element to bypass the swiveling lever and eliminate any motion lost in the rotation of said lever.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Daugherty et al. (U.S. Patent No. 4,776,619). Shimizu discloses a closing device substantially as claimed, wherein said device comprises a closing edge which stands back with respect to the closure, but does not disclose a cavity existing thereabove. Daugherty discloses a locking device that teaches the use of a receptacle (i.e. cavity) (16). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize the teachings of Daugherty, in regards to the use of a cavity, to modify Shimizu invention to insure the latching member is properly contained thereby reducing the risk of accidental unlatching.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Finkelstein et al. (U.S. Patent No. 5,887,916). Shimizu discloses a locking device for a closure, wherein said locking device closes said closure. However, Shimizu does not include a seal to facilitate sealing of the closure. Finkelstein discloses a latch for an oven door that teaches the use of a rubber seal (73). It would have been obvious to one having ordinary skill in the art at the time of invention to utilize the teachings of

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Finkelstein, in regards to the use of a rubber seal, to modify Shimizu's invention to ensure complete closing of said closure and prevent the escape of contents from within the closure.

***Response to Arguments***

10. Applicant's arguments filed on 1/13/03 have been considered but have not been found to be persuasive.

11. Applicant's arguments with respect to claim 1, namely the catch hook not being supported on bracket (13) at a spacing from the axis of rotation, have been considered but are moot in view of the new ground(s) of rejection. Specifically, the new grounds of rejection recite element (24) as the supporting element and the member (12) has been recited as the projecting guide element.

12. In response to the Applicant's arguments regarding the at least one spring means biasing the catch hook in the closing direction, the Examiner asserts that Shimizu's spring (31) biases the bracket which in turn biases the catch hook toward the closing or latching direction. It is also noted that spring (31) provides continuous and uninterrupted biasing.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Genbauffe *et al.* (U.S. Patent No. 5,029,910) and Martin (U.S. Patent No. 5,440,103) substantially discloses the present invention was claimed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546.

The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM

April 17, 2003

  
ROBERT J. SANDY  
PRIMARY EXAMINER